

A PRESUNCIÓN DE VERACIDAD ESTÁ INDISOLUBLEMENTE UNIDA A LA NEUTRALIDAD: EL QUE ES PARTE NO ES IMPARCIAL

THE PRESUMPTION OF TRUTHFULNESS IS INEXTRICABLY LINKED TO NEUTRALITY: A PARTY CANNOT BE IMPARTIAL

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Resumen

Los inspectores de educación, los equipos directivos y el resto del profesorado, en el ejercicio de sus funciones, son autoridad pública. En este artículo se analiza la presunción de veracidad de los documentos emitidos por los funcionarios públicos que gozan de la condición de autoridad ante hechos constatados directamente, así como los requisitos que deben cumplir dichos funcionarios para que efectivamente pueda otorgarse a esos documentos dicha presunción.

De acuerdo con la normativa de referencia, la jurisprudencia sobre esta temática y la opinión de autores de prestigio se razona sobre la compatibilidad de la presunción de veracidad con la presunción de inocencia establecida constitucionalmente y se resaltan las razones que fundamentan que estos documentos se presuman ciertos, salvo prueba en contrario.

Por último, se hace una especial mención a la Ley de Autoridad Docente de la Región de Murcia, que ha de ser interpretada de acuerdo con la jurisprudencia mencionada, y también sobre el valor que tienen las actas en los procedimientos judiciales.

Palabras clave: *Autoridad pública, hechos constatados, presunción de veracidad, imparcialidad, independencia, objetividad, neutralidad.*

Abstract

Education inspectors, school management teams, and other teaching staff, in the performance of their duties, are considered public authorities. This article analyses the presumption of truthfulness of documents issued by public officials who hold the status of authority in relation to facts directly observed, as well as the requirements that these officials must meet for such documents to be granted this presumption.

In accordance with the case law referenced throughout the various sections, the article discusses the compatibility of the presumption of truthfulness with the constitutional presumption of innocence and highlights the reasons justifying the assumption that these documents are truthful unless proven otherwise.

Finally, special attention is given to the Teacher Authority Law of the Region of Murcia, which must be interpreted in light of the aforementioned case law, as well as the value of minutes (acts) in judicial proceedings.

Keywords: *Public authority, established facts, presumption of veracity, impartiality, independence, objectivity, neutrality.*

INTRODUCTION

Organic Law on Education 2/2006 of 3 May (OLE) establishes the functions and powers of the Educational Inspection in articles 151 and 153, respectively. These include the issuing of reports and the drawing up of reports, on its own initiative or at the request of the corresponding administrative authority.

In view of these functions and attributions, as well as the tasks and activities included in the action plans of the different autonomous communities, we understand that the subject we are dealing with is relevant for education inspectors, as they frequently become aware of situations occurring in schools which may be susceptible to making proposals for disciplinary proceedings. Proposals which, if accepted by the competent body of the administration, will lead to the initiation of disciplinary proceedings, in which the instructors will also be members of the Educational Inspection.

We will now reflect on the role to be given to the documents in the preliminary proceedings or in the disciplinary file itself, which have been drawn up by civil servants with the status of public authority.

1. THE PRESUMPTION OF VERACITY

The Civil Code defines public documents as those authorised by a notary or competent public employee, with the solemnities required by law (1216).

Law 30/1992, of 26 November 1992, established in article 137, related to the presumption of innocence, that "The facts established by officials who are recognised as authorities, and which are formalised in a public document observing the pertinent legal requirements, will have probative value without prejudice to the evidence that, in defence of the respective rights or interests, may be pointed out or provided by the persons themselves" (137.3).

Law 39/2015, of 1 October (Common Administrative Procedure Law, hereinafter CAPL), which repealed the previous law, states, in similar terms, that "The documents formalised by civil servants who are recognised as authorities and in which, in compliance with the corresponding legal requirements, the facts established by them are recorded shall be evidence of these, unless the contrary is accredited" (77.5).

On the other hand, Law 1/2000, of 7 January, on Civil Proceedings (LEC, Code of Civil Procedure, hereinafter CCP), establishes a series of documents (317), which for the purposes of proof in the process "shall be full proof of the fact, act or state of affairs that they document, of the date on which this documentation is produced and of the identity of the notaries and other persons who, where appropriate, intervene in it" (319.1) and provides that the probative force of the rest of the public documents will be that established by the laws that grant them the character of public documents and in their absence "the facts, acts or states of affairs that appear in the aforementioned documents will be taken as certain, for the purposes of the sentence that is passed, unless other means of proof distort the certainty of what is documented" (319.2).

Considering the provisions of these laws, we can affirm that we are dealing with documents that enjoy a "presumption of veracity" or "administrative certainty", and that contain facts that the official, who has the status of authority, has been able to verify directly.

It is important, however, to bear in mind that this presumption is not absolute and unquestionable, it does not constitute full proof and its content is not inexorably imposed, but rather it is a "iuris tantum" presumption, that is to say that, despite having probative value, it admits proof to the contrary. Those affected can therefore provide, in defence of their rights, the evidence they consider appropriate to refute what is stated in the corresponding public document, and the education administration will have to assess all the existing evidence when deciding whether to initiate a disciplinary procedure or to resolve it.

1.1. ITS CONSTITUTIONALITY VIS-À-VIS THE PRESUMPTION OF INNOCENCE

The Constitution establishes the presumption of innocence as a fundamental right of all citizens (24.2).

Congruent with the above, the CAPL provides that in the case of administrative proceedings of a punitive nature, those allegedly responsible shall have the right "to the presumption of non-existence of administrative liability until proven otherwise" (53.2.b) and the Law of the Basic Statute of the Public Employee (Royal Legislative Decree 5/2015, of 30 October -TREBEP-) determines that the disciplinary power of the Public Administrations with respect to the personnel in their service shall be exercised, among others, in accordance with the principle of presumption of innocence (94.2.e).

At this point, we can ask ourselves whether the presumption of truthfulness violates the constitutionally established presumption of innocence. To this end, it is essential to turn to the Constitutional Court which, in its order ATC 7/1989, of 13 January, and subsequently in ruling 76/1990, of 26 April, clarifies the question, concluding that both presumptions are compatible.

In Appeal for Protection 1165/1988, the appellant argued that his right to the presumption of innocence had been violated, since the Contentious-Administrative Chamber had reversed the burden of proof by giving absolute and indisputable veracity to the Labour Inspection Report. However, the Constitutional Court, in the aforementioned order, states that it is not true "that the contested Judgment grants the Labour Inspection Report absolute and indisputable veracity, since, on the contrary, it attributes to this administrative document a presumption of veracity "iuris tantum", which may give way in the face of other evidence leading to different conclusions, which has not happened in this case", since the "appellant has been able to use the appropriate means of defence against the aforementioned Inspection

Report, which does not mean reversing the burden of proof, but acting against the fundamental evidence correctly adduced by the opposing party".

On the other hand, Judgment 76/1990, which responds to an appeal and two questions of unconstitutionality, in relation to certain articles of the General Tax Law, after stressing that "the presumption of innocence applies without exception in the system of penalties and must be respected in the imposition of any sanctions, whether criminal, administrative in general or tax in particular" (Eighth LB), concludes that "the rebuttable presumption of the inspection reports does not constitute any breach of the fundamental right to the presumption of innocence", since "they may be overturned in the face of other evidence leading to different conclusions, since there is nothing to prevent the appropriate means of defence from being used against the reports".

According to **Barrero** (2020), when the interested party presents evidence to combat the inspection reports, he is not proving his innocence but acting against them.

In any case "...the requirement of a sufficient body of evidence is fully applicable to the administrative sanctioning procedure, with the burden of proof falling on the acting public administration to prove both the commission of the offence and the participation of the accused, without the latter being required to provide a diabolical *probatio* of the negative facts". (STC 40/2008, of 10 March).

1.2. RATIONALE AND SCOPE

The Supreme Court, in numerous judgments, has stated that the presumption of certainty of the facts found in the inspection reports *lies* "in the **impartiality** and specialisation that, in principle, must be recognised in the inspector acting...", as stated, citing others, in STS (Supreme Court ruling, hereinafter SCR) 5011/2014, of 10 December.

The Judgement of the High Court of Justice of Madrid 29344/2008, of 30 October (Fifth LB), argues that "In this case the fundamental criterion to take into account is that of the **independence** of the technicians with respect to the interests at stake, as this constitutes a clear guarantee and security of the impartiality of their actions".

Indeed, the reason for this presumption lies in the fact that, in the exercise of their functions, public employees must act with objectivity, impartiality, neutrality... respecting the Constitution and the rest of the legal system, as stipulated in the Constitution itself and in the TREBEP.

The Constitution sets out the principles of action of the administration and the obligation to regulate the status of public employees in order to guarantee their impartiality:

"The Public Administration serves the general interest **objectively** and acts... with full submission to the law and to the law" (103.1), since "... the public authorities are subject to the Constitution and to the rest of the legal system" (9.1), guaranteeing "the prohibition of arbitrariness of the public authorities" (9.3). To ensure compliance, the Constitution requires that the status of public officials be regulated, guaranteeing their **impartiality** in the exercise of their functions (103.3).

On the other hand, the TREBEP regulates, among others, the duties, the Code of Conduct and the ethical principles to which public employees must adjust their actions (52-53), emphasising that they must always act in accordance with the legal system, and with the principles of objectivity, neutrality, impartiality, the common interest...

It is clear that in those cases in which there may be a certain collision between the general interests and the private interests of the public employee (personal interest in the matter, intimate friendship, manifest enmity...), as the aforementioned

principles cannot be guaranteed, the presumption of veracity loses value and the civil servant concerned must abstain from intervening in the procedure, in accordance with the provisions of Law 40/2015, of 1 October, since as SCR 597/2022, of 17 February, which can be perfectly applied to the minutes taken by a civil servant, points out "... whoever is a party is not impartial." (Seventh LB).

"It is not the same thing for a report or opinion issued by the administration to be used as evidence in a dispute between third parties or in a dispute to which the administration itself is a party. In the latter case, it makes no sense to say that the report or opinion is impartial and therefore deserves extra credibility: **a party is not impartial**".

In the same sense, the Supreme Court, Criminal Division, when referring to the value of statements made by police officers, uses a series of reasoning that can be transferred to the administrative sphere:

"These officers carry out their statements in an impartial and professional manner, in the sense that there is no reason to doubt their veracity, when they carry out their professional duties, and the statements they make have a high convictive power, as there is no subjective element to doubt their veracity, ... especially when we are not dealing with cases in which the police are involved in the facts as victims (for example, attack, resistance...), or as active subjects (illegal detention, torture, offences against moral integrity, injuries, etc), or as an active subject (crimes of illegal detention, torture, offences against moral integrity, injuries, etc.), cases in which it would not be acceptable, in principle, that their police statements should constitute full and objective evidence destroying the presumption of innocence in themselves. (...) Therefore, the evidential contributions of the police officers should not merit any assessment other than that which is objectively derived, not from their official status, but from the logical consistency of the corresponding statements and the strength of conviction derived from them in the context of confrontation with

the other evidential material provided by the parties" (SCR 3484/2012, of 25 April. Third LB).

In line with the above, the Provincial Court of the Balearic Islands (SAP IB 2689/2013, 17 December) ruled that:

"..., when officers of the various police forces go to court as complainants or as injured witnesses for having participated in events in which they may have been victims, they can demonstrate a subjective interest that must be taken into account. This does not mean that police officers in this or any other case are lying, but that they are likely to narrate the events with the subjectivity of those who, to a certain extent, are injured parties. And unlike those who intervene as agents of the authority with the exclusive condition of "witnesses", with respect to whom objectivity, the absolute obligation to tell the truth and the absence of interest in the final result of the process are presumed when the same agents also attend the trial with the procedural condition of defendants, as in this case, they cannot be given more value than the rest of the defendants" (Second LB).

Therefore, facts "established" by a public official, with the status of authority, cannot be presumed to be true when he is involved in the facts, as he has a personal interest and cannot be presumed to be impartial, objective, independent, neutral....

On the other hand, it must be borne in mind that the **scope of** the presumption of veracity is not absolute as it is limited to the facts that the public employee, who enjoys the status of authority, has directly witnessed or those documents or statements that have been incorporated into the document, but does not extend to opinions, value judgements....

"... the jurisprudence of this Court is also reiterated and has limited the value attributable to the Inspection Reports, limiting the presumption of certainty to only those facts which, due to their objectivity, are susceptible to direct perception by the Inspector, or to those immediately deducible from them or

accredited by means of evidence included in the report itself, such as documents or declarations incorporated into it... the presumption of certainty is not recognised for simple global assessments, value judgements or legal qualifications" (SCR 1978/2021, of 13th May, LB 4.6).

2. THE STATUS OF AUTHORITY

The status of authority must be legally granted. To this end, at state level, various sectorial laws have granted this status to certain public officials: State Security Forces and Corps (Organic Law 4/2015, of 30 March), Tax Inspectors (Law 58/2003, of 17 December), Labour and Social Security Inspectors (Law 23/2015, of 21 July), Police officers in charge of traffic surveillance (Royal Legislative Decree 6/2015, of 30 October)... and in the field of education, the OLE to Education Inspectors and teachers.

As **Cano Campos** (2013) points out, what the legislator does in these laws is to consider that what these officials have directly witnessed and have reflected in the minutes, complaints... must be considered true. **Rivero Ortega** (2000) links this idea with the principle of effectiveness of the Administration (103.1 EC) and with the presumption of validity of administrative acts (39.1 CAPL).

2.1. EDUCATIONAL INSPECTORS AS A PUBLIC AUTHORITY

Although some regulations previously endowed inspectors with authority, their consideration as a public authority, at the legal level, came about with Organic Law 9/1995, of 20 November (42.2), subsequently by Organic Law 10/2002, of 23 December (105.2) and currently by the OLE.

In accordance with the provisions of the OLE, education inspectors, for the exercise of their functions, are considered to be public authorities and have the power to draw up reports, on their own initiative or at the request of the corresponding education administration (153).

As a public authority, it must receive the necessary cooperation from the civil servants and those in charge of educational centres and services for the development of its activities.

On the other hand, the minutes drawn up by education inspectors, in accordance with the provisions of the CAPL (77.5), as they are documents formalised by officials who are recognised as having the status of authority and contain facts ascertained by them, will be proof of these unless the contrary is accredited, i.e., it is a presumption of veracity or certainty, of facts that the inspector has been able to verify directly, in accordance with 319.2 of the CCP.

2.2. THE PUBLIC AUTHORITY OF TEACHERS

The modification made by Organic Law 8/2013, of 9 December (LOMCE) to the OLE, introduced the status of public authority for teachers, providing that "Members of the management team and teachers shall be considered public authorities. In procedures for the adoption of corrective measures, the facts ascertained by teachers and members of the school management team shall have evidential value and shall be presumed to be true "iuris tantum" or unless proven otherwise, without prejudice to the evidence which, in defence of the respective rights or interests, may be indicated or provided by the pupils themselves" (124.3).

In development of this precept, various autonomous communities have enacted laws and specific regulations, with the aim of institutionally supporting their work, reinforcing their authority and stimulating social recognition in the exercise of their functions, although, as we will comment later, this has no effective impact in the event of suffering any type of aggression.

2.3. IMPACT OF THE STATUS OF PUBLIC TEACHING AUTHORITY IN THE CRIMINAL FIELD

Educational regulations have no impact on the criminal sphere, since the reference point for examining conduct in this area is the code of conduct established

in the corresponding code. Therefore, when an offence is committed against a teaching official (which we as inspectors are), the type of offence will not be aggravated, nor the corresponding penalty, by the fact that the official is a public authority and, therefore, it will not imply additional criminal protection for them.

From a criminal point of view, the teaching official is not an authority since, in accordance with article 24.1 of Organic Law 10/1995, of 23 November, of the Criminal Code: "For criminal purposes, an authority shall be considered to be anyone who, alone or as a member of a corporation, court or collegiate body, has command or exercises their own jurisdiction. In any case, members of the Congress of Deputies, the Senate, the Legislative Assemblies of the Autonomous Communities and the European Parliament shall be considered authorities. Officials of the Public Prosecutor's Office and the Public Prosecutors of the European Public Prosecutor's Office shall also be considered as authorities."

The protection granted to teaching officials by the criminal code does not derive from their status as a public authority, but directly from their status as a teaching official, in the crime of assault, following the reform of the code that took place through Organic Law 1/2015, of 30 March:

"Those who assault or, with serious intimidation or violence, put up serious resistance to the authority, its agents or public officials, or attack them, when they are in the exercise of their duties or on the occasion of their duties, are guilty of assault.

In any case, acts of aggression shall be considered to be those committed against teaching or health officials in the exercise of their duties, or on the occasion of the exercise of their duties". (article 550.1)

There are numerous rulings from different courts and provincial courts that have ruled on the impact of the status of public teaching authority in the criminal

sphere. By way of example, we note the ruling of the Barcelona Provincial Court (SAP Barcelona 14747/2018, of 20 November):

"... we understand... that the mention of art. 124.3 of the Organic Law 2/2006, of 3 May, on Education... does not allow us to conclude that this mention is for criminal purposes..."

"Articles 550 to 556 of the Penal Code distinguish between the concepts of authority, teaching or health official and public official. If teaching or health personnel were considered to be authorities, this differentiated mention would not make sense and the Code would speak exclusively of authority. Thus, school teachers appear to be criminally protected against attacks committed against them not because they are considered to be an authority for these purposes but as teaching staff, ... Thus, it turns out that the 2015 legislator wanted to protect educational and health staff in particular, when it comes to the most serious acts of aggression or violent attacks, and for this reason, has expressly introduced them into art. 550 of the Criminal Code; and now, there is no doubt that they should be considered passive subjects of the crime of attack.

Therefore, those actions against educational or health personnel that do not meet the typical characteristics of the offence of assault are outside the scope of criminal law" (Seventh LB).

3. LAW 1/2013, OF 15 FEBRUARY, ON TEACHING AUTHORITY IN THE REGION OF MURCIA

In line with the OLE and other regional laws, this law recognises the status of public authority of teachers in public and private schools (5.2) and the presumption of veracity "iuris tantum" of the facts ascertained by them in the exercise of their duties (6).

This same article includes a final clause ("When the application of this article produces a conflict of rights, it shall be resolved in accordance with the hierarchical order of those involved and the powers of the Educational Inspection") which, if misunderstood, could lead to conclusions which, in our opinion, are totally erroneous.

In our opinion, when we speak of collision, we are affirming that in the presence, for example, of the management of a school and an education inspector, the latter's findings will prevail. A similar criterion would be followed when the "collision" occurs in the face of facts established by a teacher and the management, in favour of the latter, always taking into account, where appropriate, other elements of proof that may exist.

However, it should be borne in mind that this reasoning is only valid when the officials issuing the relevant documents are not involved in the facts, ensuring that they have no personal interest in them and that their actions are governed by the principles repeatedly mentioned: neutrality, objectivity, independence and impartiality.

Let us look at a couple of examples that may reach the desk of the inspector of reference of the centre, so that they can carry out the pertinent actions in order to investigate the facts that will allow them to make concrete proposals in the corresponding report.

In the first case, there has been a dispute in a room of the school, without witnesses, between the director and a couple of teachers, where the former claims that he was insulted by the teachers and the latter say the opposite, i.e. that it was the former who insulted them.

In another case, the management is denounced by other teachers who claim that the management does not fulfil its timetable for supporting certain pupils.

It is obvious that the inspector will try, in addition to collecting the testimonies of the teachers involved, to look for other elements of proof that will allow them to

make an accurate proposal (for example, in the second case, to interview the pupils who should have been supported in order to collect their testimony and verify whether or not the support has been provided), However, if there is no additional evidence that would allow us to approach the reality of the facts, in our opinion, it is not appropriate to resort to the "hierarchy" to conclude that what the management says is the administrative, absolute and indisputable truth, and even less so when there are several teachers who contradict what the management says. In these cases, the management's statements cannot be given more weight than those of the other teachers, because if we were to do so, we would be violating the constitutional principle of the presumption of innocence, giving the official with "hierarchical" authority a "iuris et de iure" presumption that would not admit of proof to the contrary.

4. THE VALUE OF MINUTES IN COURT PROCEEDINGS

In administrative proceedings, in the existence of a report drawn up by an official who is recognised as an authority, including facts that they have directly witnessed and revealing an infringement, if it meets the requirements of objectivity, neutrality, independence, etc., the Administration, after analysing other evidence that may contradict it, will initiate, if appropriate, a sanctioning procedure, in the course of which the citizen or the official, in disciplinary proceedings, may argue what they consider and provide or request the appropriate evidence to combat the fact stated in the report.

Once the administrative sanctioning act has been produced and appealed in the contentious-administrative jurisdiction, the minutes do not enjoy "an absolute evidentiary preference that makes it unnecessary to form a judicial conviction about the truth of the facts using the rules of logic and experience. In judicial proceedings, the minutes of the Inspectorate incorporated into the sanctioning file do not enjoy greater relevance than the other means of evidence admitted in Law and, therefore, neither must they necessarily prevail over other evidence that leads to different

conclusions, nor can they prevent the judge in the contentious proceedings from forming his conviction on the basis of a reasoned assessment or evaluation of the evidence." (STC 76/1990, of 26 April. Eighth LB).

In the criminal order, the judge is not conditioned by the presumption of administrative veracity, since "... it is not admissible that the criminal process can be conditioned by a prior presumption derived from the administrative procedure of inspection and verification ..., since this would mean that the documentation of the Inspection would have for criminal purposes a value of certainty of the facts that are stated therein, the alleged offender being obliged to destroy that certainty by means of proof to the contrary of his innocence.... the inspection report contains the confirmation of facts from which a sufficient *notitia criminis* is inferred for the opening of criminal proceedings, within which and in the oral trial phase it will have the probative value as documentary evidence that the criminal judge freely appreciates..." (STC 76/1990, 26 April. Eighth LB).

In this sense, **Fernández Ramos** (2002) states that the inspection report will be assessed together with the rest of the evidence in the procedure which, if appropriate, may eliminate the presumption of certainty of the report.

CONCLUSIONS

The recognition of education inspectors and teachers as public authorities implies that the facts established by the members of these groups, set out in the corresponding public documents, are presumed to be true. However, this certainty is not absolute, as it admits proof to the contrary, and may therefore yield to other evidence that leads to different conclusions. In this sense, in order to make a proposal for the initiation of disciplinary proceedings, or when the education inspector is the instructor of such proceedings, they will have to assess all the existing evidence.

The fact that we are dealing with a "iuris tantum" presumption of veracity and, therefore, that it does not enjoy absolute veracity, is what makes this presumption compatible with the presumption of innocence, as the teacher concerned may present the means of proof that they consider appropriate to challenge the corresponding public document.

The basis for granting this presumption of truthfulness lies in the impartiality, independence, objectivity and neutrality that must govern the actions of these public officials in the exercise of their functions. However, this presumption is weakened and loses force when the official is implicated in the facts, as he has a personal interest in them. Therefore, a presumption of veracity cannot be granted to the findings of a public official, with the status of authority, when he is involved, since he who "is a party is not impartial".

The status of public authority of these teaching officials is exclusively for administrative purposes, since from a criminal point of view they are not considered to be an authority. The protection granted to them by the criminal code does not derive from their status as a public authority, but directly from their status as a teaching official and only in the crime of assault.

In the judicial process, the judge is not conditioned by the presumption of administrative veracity, since the minutes are not more relevant than the rest of the evidence, so he will form his conviction after a reasoned assessment of all of them.

BIBLIOGRAPHICAL REFERENCES

- Barrero Rodríguez, Concepción (2020). *Lecciones de Derecho Administrativo. Parte General*. Tecnos.
- Cano Campos, T. (2008). *Presunciones y valoración legal de la prueba en el derecho administrativo sancionador*. Civitas.
- Fernández Ramos, S. (2002). *La actividad administrativa de inspección. El régimen jurídico general de la función inspectora*. Comares.
- Rivero Ortega, R. (2000). *El Estado vigilante. Consideraciones jurídicas sobre la función inspectora de la Administración*. Tecnos.

LEGAL REFERENCES

- Constitución española.
- Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal, modificada por la Ley Orgánica 1/2015, de 30 de marzo.
- Ley Orgánica 2/2006, de 3 de mayo, de Educación.
- Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana.
- Real Decreto de 24 de julio de 1889 por el que se publica el Código Civil.
- Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil.
- Ley 58/2003, de 17 de diciembre, General Tributaria.
- Ley 1/2013, de 15 de febrero, de Autoridad Docente de la Región de Murcia.
- Ley 23/2015, de 21 de julio, Ordenadora del Sistema de Inspección de Trabajo y Seguridad Social.

-
- Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas.
 - Ley 40/2015, de 1 de octubre, de Régimen Jurídico del Sector Público.
 - Real Decreto Legislativo 5/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto Básico del Empleado Público.
 - Real Decreto Legislativo 6/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley sobre Tráfico, Circulación de Vehículos a Motor y Seguridad Vial.

CASE LAW REFERENCES

- Auto del Tribunal Constitucional 7/1989, (Sección Tercera), de 13 de enero (Recurso de amparo 1165/1988).
- Sentencia del Tribunal Constitucional 76/1990, (Pleno), de 26 de abril (Recurso de inconstitucionalidad 695/1985).
- Sentencia del Tribunal Constitucional 40/2008, (Sala Primera), de 10 de marzo (Recurso de amparo 6545-2004).
- Sentencia del Tribunal Supremo, (Sala de lo Penal, Sección 1), de 25 de abril, (Recurso 11721/2011 -ROJ 3484/2012-)
- Sentencia del Tribunal Supremo, (Sala de lo Contencioso, Sección 3), de 10 de diciembre, (Recurso 370/2014-ROJ STS 5011/2014-).
- Sentencia del Tribunal Supremo 202/2022 (Sala de lo Contencioso, Sección 4), de 17 de febrero, (Recurso 5631/2019 -ROJ 597/2022-)
- Sentencia del Tribunal Supremo, (Sala de lo Social, Sección 1), de 13 de mayo, (Recurso 4/2019 -ROJ STS 1978/2021-)

-
- Sentencia del Tribunal Superior de Justicia de Madrid 2038/2008 (Sala de lo Contencioso, Sección 2), de 30 de octubre (Recurso 1260/2008 –ROJ STSJ M 29344/2008-)
 - Sentencia de la Audiencia Provincial de Baleares 141/2013 (Procedimiento Penal, Sección 1), de 17 de diciembre, (Recurso 56/2012 – ROJ SAP IB 2689/2013-).
 - Sentencia de la Audiencia Provincial de Barcelona 640/2018 (Procedimiento Penal, Sección 9), de 20 de noviembre, (Recurso 168/2017 –ROJ SAP B 14747/2018-).